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5 IN THE UNITED STATES DISTRICT COURT
6
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
8

9 UNITED STATES OF AMERICA,
10
11 Plaintiff,

No. CR 04-00317 WHA

12 v.

13 CHARLES EDWARD LEPP,
14 Defendant.

**ORDER DENYING CERTIFICATE OF
APPEALABILITY OF ORDER
DENYING DEFENDANT'S MOTION
UNDER SECTION 2255**

15 By order dated April 9, defendant's motion to vacate, set aside, or correct his sentence
16 under Section 2255 was denied (Dkt. No. 411). A certificate of appealability is now requested.
17 Pursuant to 28 U.S.C. 2253(c) and Rule 11(a) of the Rules Governing Section 2255 Cases,
18 defendant must make a substantial showing that his claims amounted to a denial of his
19 constitutional rights or demonstrate that a reasonable jurist would find this Court's denial of his
20 claims debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). For the reasons set
21 forth in the April 9 order denying defendant's Section 2255 motion, defendant has failed to do
22 so. Consequently, a certificate of appealability is **DENIED**.

23 The denial of the certificate of appealability is without prejudice to petitioner seeking a
24 certificate from the United States Court of Appeals for the Ninth Circuit.
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26 **IT IS SO ORDERED.**

27 Dated: May 17, 2013.

28 
WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE